

REMARKS

Claims 1-10 were pending in the application as filed on September 5, 2003. Upon entry of this amendment, claims 1-3 and 11-21 will be pending. Claims 4-10 have been cancelled without prejudice or disclaimer. Claims 1-3 have been amended to correct typographical errors and to better define the invention. Claims 11-21 have been added to further define the invention. Support for new claim 11 is found in the specification at page 8 (second full paragraph). Support for new claims 12 and 13 is found in the specification at page 9 (first full paragraph). Support for new claim 14 is found in the specification at page 9 (second full paragraph). Support for new claim 15 is found in the specification at page 9 (last paragraph). Support for new claim 16 is found in the specification at page 10 (second full paragraph). Support for new claims 17 and 18 is found in the specification at page 11 (first full paragraph). Support for new claim 19 is found in the specification at page 11 (last paragraph). Support for new claims 20 and 21 is found in the specification at pages 3, 7, 8, and 12. No new matter has been added.

I. Restriction Requirement

The Examiner has required restriction to one of the following inventions:

Group I: claims 1-3, drawn to an endoscopic band ligator; or

Group II: claim 4-9, drawn to an endoscopic control device.

On January 18, 2004, Applicants' former representative, Joyce C. Hersh, provisionally elected without traverse to prosecute the invention of Group I, claims 1-3. Applicants hereby affirm this election of the invention of Group I, claims 1-3, drawn to an endoscopic ligator. Additionally, Applicants request that the Examiner include amended claim 10 in Group I. The Examiner's prior restriction requirement overlooked claim 10. As amended, claim 10 fits within Group I.

Applicants have cancelled claims 4-9 without prejudice or disclaimer. Applicants reserve the right to file a divisional application directed to the invention of Group II, claims 4-9.

II. Rejections under 35 U.S.C. § 102

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hosoda (U.S. Patent No. 5,569,268). Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Suzuki et al. (U.S. Patent No. 6,464,685). Each reference fails to teach each and every element of the presently claimed invention. Applicants traverse the rejections for the following reasons.

Independent claim 1 is directed to an endoscopic band ligator comprising an inner sleeve mountable over an endoscope shaft; a middle sleeve longitudinally slidable relative to the inner sleeve and carrying at least one ligating band about its outer surface; and an outer sleeve slidable relative to the middle and inner sleeves and having projecting fingers to engage in discharging a ligating band from the middle sleeve.

In direct contrast to the presently claimed invention, Hosoda teaches an outer tube to which the tip of an endoscope mounts and an inner tube that is axially movably inserted in the outer tube. (Hosoda at column 4, line 65 to column 5, line 4 and column 10, lines 6-10). Furthermore, in all embodiments of Hosoda the outer tube is not slidable as in the presently claimed invention.

Suzuki et al. teaches an endoscopic ligation kit comprising an inner cylinder, an outer cylinder and a middle, slide cylinder. (Suzuki et al. at column 2, lines 32-67). In direct contrast to the presently claimed invention, the outer cylinder in Suzuki et al. is not slidable. In addition, the O-rings, or ligating bands, are mounted on the inner and outer cylinders and not on the slide cylinder, or middle cylinder, as in the presently claimed invention.

Since neither Hosoda nor Suzuki et al. teach each and every element of the presently claimed invention, Applicants submit that the presently claimed invention is not anticipated by Hosoda or Suzuki et al. Accordingly, Applicants request that the rejections be withdrawn.

CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable consideration of the application is respectfully requested.

The Commissioner is authorized to charge any fees, or credit any overpayments, required in connection with this paper to Deposit Account No. 16-2500.

Respectfully submitted,
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